

REMARKS

Claims 1 and 7 are pending in this application.

Applicants have amended claims 1 and 7, and have canceled claims 2-6 and 8-20.

These changes do not introduce any new matter.

Applicants note that a Preliminary Amendment was submitted with the originally filed application, and that the changes made in the Preliminary Amendment were not considered in the Office Action. That said, as Applicants have canceled all the claims that were changed in the Preliminary Amendment, the failure to consider the Preliminary Amendment in the Office Action is moot.

Applicants respectfully request reconsideration of the rejection of claims 1-8 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement (Applicants note that claims 2-6 and 8 have been canceled herein). Regarding the availability of the strains, Applicants' undersigned representative states that a deposit has been made under the terms of the Budapest Treaty and that all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent.

Regarding the identifying properties, Applicants note that the Examiner rejected claims 1-5 and 8 based on the allegation that the specification does not provide enablement for strains other than those specified in claims 6 and 7. Applicants have amended independent claim 1 to include the features specified in dependent claim 6 and intervening claim 5. In addition, Applicants have rewritten claim 7 in independent format. Accordingly, Applicants respectfully submit that independent claims 1 and 7, as presented herein, are supported by an enabling specification and request that the rejection of claims 1 and 7 under 35 U.S.C. § 112, first paragraph, be withdrawn.

Applicants respectfully request reconsideration of the rejection of claims 1, 5, and 8 under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over ZA 9810327 (Applicants note that claims 5 and 8 have been canceled herein). As noted above, Applicants have amended independent claim 1 to include the features specified in dependent claim 6 and intervening claim 5. As recognized by the Examiner, the features specified in original claim 6, which features are now recited in independent claim 1, are neither disclosed nor suggested by ZA 9810327. Accordingly, Applicants submit that independent claim 1, as presented herein, is patentable under 35 U.S.C. §§ 102(b) and 103(a) over ZA 9810327.

In view of the foregoing, Applicants respectfully request reconsideration and reexamination of claims 1 and 7, as amended herein, and submit that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 749-6902. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. ASIAP114).

Respectfully submitted,
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